

Our goal at the Franchise Tax Board is to make sure that your rights are protected so that you will have the highest confidence in the integrity, efficiency and fairness of our state income tax system.

Your Rights to Confidentiality

We keep confidential the information that you provide to us on your state tax returns, in letters and during any meetings with our auditors or other representatives. We share confidential information, only as required by law, with other government agencies such as the Internal Revenue Service and other state and local tax agencies.

Payment of Your Tax

Our goal is to work cooperatively with you so that you can compute the correct amount of tax to pay.

In some cases, there may be disagreements about the correct amount you owe, the correct method to use to compute your tax, or the correct interpretation of the law. In these cases, you have the right to appeal our actions. You will find more information about your appeal rights later in this pamphlet.

Bills You Receive From Us

If you owe state income tax and do not pay the full amount due with your tax return, we send you a bill for the amount you owe. Or if you made an error on your return, we correct it and send you a notice explaining the change.

The bill we send to you shows the amount of tax, interest and penalties (if any) you owe. In addition, the bill shows the amount of time you are allowed to pay the bill in full before additional interest will accrue.

Your Payment Responsibilities

You have a responsibility to promptly pay the full amount of taxes that you owe. We do not take action to collect any amount you owe until after you have been given an opportunity to pay. We prefer to work out arrangements with you that allow you to pay your tax rather than take enforcement action such as filing tax liens or levying and seizing your property. For this reason, it is very

important for you to respond promptly to our attempts to contact you. If you do not respond, we may have no choice but to proceed with enforcement actions.

Installment Payment Agreements

It is best to pay your taxes in full when you file your return or when you receive a bill from us. However, if you have a financial hardship and cannot pay your tax in full, you can ask to make monthly installment payments. If we approve your request, we agree to let you pay the tax you owe in monthly installments instead of immediately paying the amount in full. In return, you agree to make your monthly payments through electronic funds transfer (EFT). EFT allows you to automatically make payments to the Franchise Tax Board by a direct transfer of funds from your bank account.

Your Rights During a Tax Audit

If your tax return is selected for an audit, you have the right to a fair examination and a written explanation of all changes we make to your tax return as a result of the audit. It is our goal to treat you courteously and fairly during the entire audit process.

During an audit we may ask you to provide additional information to verify amounts shown on your return. In these cases, you have the right to know why we ask for information, how that information is used, and what happens if you fail to furnish the information.

We complete some audits entirely through correspondence. Our first letter normally requests information from you. You should be prepared to furnish copies of documents to support a credit or deduction you claimed on your tax return, or to verify a particular income item or the difference between amounts reported for federal and state tax purposes.

Your reply usually is due between 30 and 60 days from the date of our request. If the issue is too complex to be resolved by correspondence or telephone, we may refer the audit to one of our district offices.

Some audits involve a review of your records by one or more of our field auditors. Field examination appointments generally are scheduled at your convenience. The examination may be held at your home or office, at your representative's office, or at one of our district offices. When the appointment is scheduled, the auditor tells you which documents you must have available for review.

Throughout any examination, you have the right to represent yourself, have someone else accompany you or, with proper authorization, have someone represent you in your absence.

After the Audit

At the conclusion of an audit, we take one of the following three actions:

- accept the return as filed;
- issue a Notice of Proposed Assessment that indicates the additional amount you must pay; or
- issue a Notice of Over-assessment that indicates you are entitled to receive a refund because you originally paid too much.

If we propose changes to your return, we explain the reasons for the changes. It is important that you understand the reasons for all proposed changes. Ask about anything that is unclear to you.

Your Protest Rights

If we issue a Notice of Proposed Assessment and you do not agree with our action, you have the right to protest our action rather than pay the assessment. In this case, you must file a written protest within 60 days from the date our Notice of Proposed Assessment was mailed. There is no special form to use for protesting an assessment. However, your letter must state why you are protesting. Your letter also must include a statement of facts and points in support of your position, an explanation of why our action is wrong, and the following:

- your name, address, social security or corporate number;
- the amount and tax year involved;

- the date and number of the Notice of Proposed Assessment;
- your signature;
- your telephone number.

The law does not allow you to protest our action after the 60-day protest period. Therefore, it is important for you to file your protest timely. You must send your letter of protest to the following address:

Protest Section
Franchise Tax Board
PO Box 942867
Sacramento CA 94267-5540

Note: Your protest does not stop the compounding of interest.

How FTB Handles Your Protest

If we receive your protest letter within the 60-day protest period, we review your facts and supporting information. After this review, we may request additional information or, at your request, we may schedule a hearing at one of our offices.

At the conclusion of our protest review, we either withdraw the proposed assessment, revise it, or affirm it for the full amount of the tax due. We notify you of the results by sending you a formal Notice of Action.

Your Appeal Rights

If you do not agree with our decision concerning your protest, you have the right to file an appeal with the State Board of Equalization within 30 days from the date our Notice of Action was mailed to you. It is not necessary for you to pay the tax prior to appealing. However, you may pay the additional tax, interest, and penalties to stop the further compounding of interest.

Your appeal to the five-member State Board of Equalization must be in writing. You must state specifically that you are filing an appeal. You will find specific instructions for filing an appeal on the back of the Notice of Action. Be sure to mail your appeal to the State Board of Equalization – not the Franchise Tax Board.

Your appeal to the State Board of Equalization must include the same information you included in your protest (described previously), and must also provide the date of the Notice of Action.

How Your Appeal is Processed

At your request, the State Board of Equalization will hold a hearing where you or your representative may present your case. The State Board of Equalization will either affirm, reduce, or withdraw the assessment.

If you disagree with the State Board of Equalization's action, you must pay the tax, interest, and penalties before you may file a suit for refund in superior court. Prior to filing the suit, you must also have filed a claim with the Franchise Tax Board which was denied. Exception: If your case is limited to the issue of residency status, you can file a suit in superior court without having prepaid or filing a claim with the Franchise Tax Board.

If you prevail in your appeal to the State Board of Equalization, you may be entitled to reimbursement for reasonable fees and expenses related to the hearing before the Board of Equalization. In this case, the Board of Equalization must find that the Franchise Tax Board action was unreasonable and that the position of the Franchise Tax Board staff was not substantially justified. Claims for reimbursement of fees and expenses must be received by the State Board of Equalization within one year of the issuance of the Board of Equalization's decision in the case.

Collection Actions

If you do not pay your tax, interest, and penalties (if any) by the date shown on the bills we send you, we will begin to collect the money you owe. Our activities may include filing a tax lien against your property or actually levying and seizing your property. Cost recovery fees may be assessed in conjunction with collection and/or filing enforcement activities. During all collection activities, it is our intent to treat you fairly and courteously.

Tax Liens

A tax lien is a public notice of debt. It attaches to your property and your rights to property. Once a tax lien is filed, it becomes a matter of public record and may harm your credit rating. If we file a lien in error, we will issue a release within seven working days after we determine that the lien was issued in error. You may request that a notice of error be sent to the credit reporting companies in the county where the lien was filed.

Wage and Bank Levies

A levy is the taking of property to satisfy a liability. We may levy your property in the control of others (such as employers and banks) or in your possession (such as automobiles and boats).

If we levy your wages or bank accounts, you have a right to an administrative hearing to present information to show why the attachment should be modified or withdrawn.

If we erroneously seize your bank account, and you incur bank charges as a result of the erroneous levy, you have a right to file a claim with us for reimbursement of those bank charges. You must file your claim in writing within 90 days of the levy.

Property Seizure and Sales

Most real or personal property you own or have an interest in may be seized by the Franchise Tax Board and sold to satisfy your tax debt. If we seize your property, you have a right to an administrative hearing to present your case to show why we should not sell your property to satisfy your tax debt. You may redeem your property at any time prior to the time it is sold. To redeem your property, you must pay the tax due, including penalties and interest, as well as any expenses we incurred for seizing and storing the property.

Penalties and Interest

You have the right to ask that we cancel certain penalties if you can show reasonable cause for your failure to comply that led to the penalty. Interest charges may be waived in limited circumstances as permitted by law.

Written Advice

You may ask for written tax advice from the Franchise Tax Board on whether a particular activity or transaction is subject to tax under California law. In certain circumstances if you receive and rely on written advice and it is incorrect, then penalties and interest (and in some cases tax) may be canceled.

Your request for written advice must include:

- Your name, address, social security or corporate number;
- A complete statement of all the facts of your transaction.

If you are a professional preparer or representative seeking written advice on behalf of a client, your request must also include your legal analysis and authority for your position.

Mail your request to:

Request for Written Advice
Franchise Tax Board
PO Box 1720
Rancho Cordova CA 95741-1720

The request should specify: "Taxpayers' Bill of Rights-Request for Written Advice."

The Franchise Tax Board does not issue written advice in certain circumstances including when state and federal law are the same or on questions of fact, such as residency.

Taxpayer Advocate

The Franchise Tax Board has a Taxpayer Advocate for taxpayers who have not been able to resolve their problems with the Franchise Tax Board through normal channels. To reach the Taxpayer Advocate, write to:

Taxpayer Advocate Bureau
PO Box 157
Rancho Cordova CA 95741-0157
or FAX (916) 845-6614

You may also email the Advocate at:
<http://www.ftb.ca.gov>

If you write to the Advocate, be sure to include your daytime phone number so we can respond to you as quickly as possible. Contacting the Taxpayer Advocate does not constitute a protest or an appeal, and it does not extend the time for you to protest or appeal.

California Taxpayers' Bill of Rights

A Guide for Taxpayers

California Franchise Tax Board